

**NOT FOR PUBLICATION**

**SEP 27 2007**

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

BARBARA CLARK,

Plaintiff - Appellant,

v.

CAROL POPE; et al.,

Defendants - Appellees.

No. 06-16333

D.C. No. CV-05-02410-FCD-KJM

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Eastern District of California  
Frank C. Damrell, Jr., District Judge, Presiding

Submitted September 24, 2007<sup>\*\*</sup>

Before: CANBY, TASHIMA, and RAWLINSON, Circuit Judges.

Barbara Clark appeals pro se from the district court's order dismissing her third amended complaint alleging, *inter alia*, violations under 42 U.S.C. § 1983.

We have jurisdiction pursuant to 28 U.S.C. § 1291. We review a dismissal under

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Fed. R. Civ. P. 12(b)(6) de novo, *Price v. Hawaii*, 939 F.2d 702, 706 (9th Cir. 1991), and we affirm.

The district court properly dismissed Clark's section 1983 claims against defendants Pope and Hershewe because Clark failed to adequately allege that these defendants acted under color of state law. *See Price*, 939 F.2d at 707-08 (noting that a section 1983 claim requires state action and private parties generally do not act under color of state law); *see also Am. Mfr. Mut. Ins. Co. v. Sullivan*, 526 U.S. 40, 50-58 (1999) (explaining that state action cannot be established by allegations that defendants were subject to state regulations).

Because Clark does not challenge the dismissal in favor of defendant Rea, or any other aspects of the district court's judgment, we decline to consider those issues. *Miller v. Fairchild Indus., Inc.*, 797 F.2d 727, 738 (9th Cir. 1986) ("The Court of Appeals will not ordinarily consider matters on appeal that are not specifically and distinctly argued in appellant's opening brief . . .").

**AFFIRMED.**